



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

49 CFR Part 383

[Docket No. FMCSA-2016-0346]

RIN 2126-AB98

Commercial Learner's Permit Validity

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM), request for comments.

SUMMARY: FMCSA proposes to amend the Federal Motor Carrier Safety Regulations (FMCSRs) to allow States to issue a commercial learner's permit (CLP) with an expiration date of up to one year from the date of initial issuance. CLPs issued for shorter periods may be renewed but the total period of time between the date of initial issuance and the expiration of the renewed CLP could not exceed one year. This proposed amendment would replace the current regulations, which require the States to issue CLPs initially for no more than 180 days, with the possibility of an additional 180-day renewal at the State's discretion.

DATES: Comments on this notice must be received on or before [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Docket Number FMCSA-2016-0346 using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- Fax: 202-493-2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for instructions on submitting comments, including collection of information comments for the Office of Information and Regulatory Affairs, OMB.

FOR FURTHER INFORMATION CONTACT: Mr. Selden Fritschner, CDL Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001, by email at selden.fritschner@dot.gov, or by telephone at 202-366-0677.

SUPPLEMENTARY INFORMATION:

I. PUBLIC PARTICIPATION AND REQUEST FOR COMMENTS

A. Submitting Comments

If you submit a comment, please include the docket number for this NPRM (Docket No. FMCSA-2016-0346), indicate the specific section of this document to which each section applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail

address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, put the docket number, FMCSA-2016-0346, in the keyword box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is customarily not made available to the general public by the submitter. Under the Freedom of Information Act, CBI is eligible for protection from public disclosure. If you have CBI that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Accordingly, please mark each page of your submission as “confidential” or “CBI.” Submissions designated as CBI and meeting the definition noted above will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Analysis Division, 1200 New Jersey Avenue SE., Washington DC 20590. Any

commentary that FMCSA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. Insert the docket number, FMCSA-2016-0346, in the keyword box, and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

D. Waiver of Advance Notice of Proposed Rulemaking

Under the Fixing America’s Surface Transportation Act (FAST Act) (Pub. L. 114-94), FMCSA is required to publish an advance notice of proposed rulemaking (ANPRM) or conduct a negotiated rulemaking “if a proposed rule is likely to lead to the promulgation of a major rule” (49 U.S.C. 31136(g)(1)). As this proposed rule is not likely to result in the promulgation of a major rule, the Agency is not required to issue an ANPRM or to proceed with a negotiated rulemaking.

E. Comments on the Collection of Information

If you have comments on the collection of information discussed in this NPRM, you must send those comments to the Office of Information and Regulatory Affairs at OMB. To ensure that your comments are received on time, the preferred methods of submission are by e-mail to oir-submissions@omb.eop.gov (include docket number “FMCSA-2016-0346” and “Attention: Desk Officer for FMCSA, DOT” in the subject line of the e-mail) or fax at 202-395-6566. An alternative, though slower, method is by U.S. Mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, ATTN: Desk Officer, FMCSA, DOT.

II. EXECUTIVE SUMMARY

Purpose and Summary of the Major Provisions

This NPRM would allow States to issue a CLP for no more than one year from the date of initial issuance, with or without renewal within that one-year period. After one year from the date of initial issuance, a CLP, or renewed CLP, would no longer be valid. Accordingly, if the applicant does not obtain a CDL within one year from the date the CLP was first issued, he/she must reapply for a CLP. This approach would replace the current requirements of §§ 383.25(c) and 383.73(a)(2)(iii), under which a CLP is valid for no more than 180 days from the date of issuance, with an option for the State to renew the CLP for an additional 180 days without requiring the general and endorsement knowledge tests, as applicable. The proposed change provides an improved process for CLP issuance that FMCSA believes will save time and money for both States and CLP applicants, as discussed below, without affecting safety.

Benefits and Costs

The primary entities affected by this proposed rule would be State Driver Licensing Agencies (SDLAs) and CLP holders. FMCSA is unable to estimate the number of SDLAs that may choose to issue a CLP that is valid for up to one year or the number of CLP holders that would be affected. Nonetheless, potential benefits of this proposed rule would include reduced costs to CLP holders, including reductions in the opportunity cost of time that, in the absence of this proposed rule, would be spent by CLP holders traveling to and from an SDLA office and at an SDLA office, renewing a CLP that is valid for no more than 180 days. SDLAs that choose under this proposed rule to issue a CLP that is valid for up to one year may benefit from the elimination of costs associated with processing renewals of CLPs. FMCSA does not expect there would be any costs imposed upon CLP holders as a result of this rule. Under this proposed rule SDLAs that choose to offer a CLP that is valid for up to one year may incur costs related to information technology (IT) system upgrades that may be necessary.

Although potential reductions in CLP renewal fees collected by SDLAs may appear to be a cost of this proposed rule to SDLAs, and the commensurate potential savings to CLP holders of CLP renewal fees may appear to be a benefit to CLP holders, any such changes in renewal fee amounts are best classified as transfer payments and not as a cost to SDLAs (in the form of forgone fee revenue) or as a benefit to CLP holders (in the form of CLP renewal fees no longer expended). If an SDLA were to increase its fee for the issuance of a CLP in order to offset any reduction in revenue resulting from the elimination of CLP renewals and associated fees, a transfer would occur from those CLP holders who, in the absence of the rule, would not have renewed their CLP to CLP holders who would have renewed their CLP.

III. LEGAL BASIS FOR THE RULEMAKING

This rulemaking is based on the broad authority of the Commercial Motor Vehicle Safety Act of 1986 (CMVSA), as amended, codified at 49 U.S.C. chapter 313 and implemented by 49 CFR parts 383 and 384. The CMVSA provides that “[a]fter consultation with the States, the Secretary of Transportation shall prescribe regulations on minimum uniform standards for the issuance of commercial drivers’ licenses and learner’s permits by the States...” (49 U.S.C. 31308).

IV. BACKGROUND

On September 1, 2015, the Oregon Department of Transportation (ODOT) requested an exemption from § 383.25(c) to allow a CLP to be issued for one year. Currently the regulation provides that the CLP must be valid for no more than 180 days from the date of issuance. However, under §§ 383.25(c) and 383.73(a)(2)(iii), the State may renew the CLP for an additional 180 days without requiring the CLP holder to retake the general and endorsement knowledge tests. In its request for the exemption, ODOT stated that “[a]dding the bureaucratic requirement for a CLP holder to visit a DMV office and pay a fee in order to get a second six months of CLP validity will add unnecessary workload to offices already stretched to the limit.”

On November 27, 2015, FMCSA published notice of ODOT’s application for exemption and requested public comments (80 FR 74199). The Agency received 10 comments in response to the proposed exemption. The Alabama Law Enforcement Agency; Colorado Department of Revenue CDL Unit; New York Department of Motor Vehicles; Oregon Trucking Associations, Inc.; and two individuals supported the exemption. The Commercial Vehicle Training Association (CVTA) and three individuals opposed the exemption.

In a notice published on April 5, 2016 (81 FR 19703), FMCSA stated that the exemption requested by the ODOT would maintain a level of safety equivalent to or greater than the level of

safety that would be achieved without the exemption, as required by 49 CFR 381.305(a). The Agency therefore approved ODOT's application for exemption and allowed all SDLAs nationwide to use the exemption at their discretion. However, the exemption did not change the language of § 383.25(c) and the exemption remains effective for 2 years from the date of approval, expiring on April 5, 2018. Subsequent to FMCSA's approval of ODOT's application, the Agency amended its Notice of Final Disposition to also include exemption from the parallel requirements of § 373.73(a)(2)(iii) (81 FR 86067 (November 29, 2016)).

V. DISCUSSION OF PROPOSED RULEMAKING

Requiring States to issue a CLP for no more than one year, with or without renewal

This proposed rule would amend §§ 383.25 (c) and 383.73(a)(2)(iii) to allow States to issue a CLP for no more than one year, without requiring the CLP holder to retake the general and endorsement knowledge tests. The Agency proposes a maximum period of CLP validity of one year, rather than the 360-day maximum currently permitted under §§ 383.25(c) and 383.73(a)(2)(iii). The principal reason for this proposed change, as noted above and discussed further below, is to increase efficiency in the licensing system and to reduce costs to drivers and administrative burdens to SDLAs. FMCSA is also proposing the rule, however, in order to account for the fact that, in practice, some States allow a "grace period" between the initial CLP issuance period of 180 days and the 180-day renewal period currently allowed, thus resulting in a total period of time which may exceed 360 days from the time of initial issuance of the CLP. States that choose to issue a CLP for an initial period of less than one year may provide for renewal, as long as the renewed CLP is not valid for more than one year from the date of initial issuance of the original CLP. For example, under the proposed change, a State could issue a CLP that is valid for nine months. If that State chose to allow the CLP holder to renew the CLP, the

renewal could not be valid for longer than three months, up to a total period of one year from the date of initial issuance.

The Agency invites States and other interested parties to identify potential costs (e.g., necessary changes in CLP-related IT systems), savings and process efficiencies that may result from the proposed change, along with any supporting data.

VI. SECTION-BY-SECTION ANALYSIS

FMCSA proposes to amend part 383 in the following ways:

Section 383.25 Commercial learner's permit (CLP)

In § 383.25(c) FMCSA makes minor changes to the text and replaces “180 days” with “one year” to reflect the proposed extended period of time that a CLP can be valid before a CLP holder would have to re-test. FMCSA also provides for renewal of CLPs that have been issued for a period of less than a year.

Section 383.73 State procedures

In § 383.73(a)(2)(iii) FMCSA makes minor changes to the text and replaces “180 days” with “one year” to clarify in the instructions to States the proposed extended period of time that a CLP can be valid before a CLP holder would have to re-test. FMCSA also provides for renewal of CLPs that have been issued for a period of less than a year.

VII. REGULATORY ANALYSES

A. E.O. 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

This NPRM is not a significant regulatory action under section 3(f) of Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011), Improving Regulation and

Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(4) of that Order. It is also not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980; 44 FR 11034, February 26, 1979). Accordingly, the Office of Management and Budget has not reviewed it under these Orders. This proposed rule would amend existing procedures and practices governing the issuance of commercial learner's permits.

Costs and Benefits

This proposed rule allows States to issue a CLP that is valid for no more than one year from the date of initial issuance, with or without renewal during that one-year period. This approach would replace the current requirements, as set forth in §§ 383.25(c) and 383.73(a)(2)(iii), which require that a CLP must be valid for no more than 180 days from the date of issuance, with an additional 180-day renewal possible at the State's discretion.

The primary entities affected by this proposed rule would be SDLAs and CLP holders. FMCSA is unable to estimate how many of the 51 SDLAs may choose under this proposed rule to issue a CLP that is valid for up to one year. The number of SDLAs that have thus far chosen to issue a CLP that is valid for one year from the date of issuance without renewal, consistent with the exemption to § 383.25(c) issued on April 5, 2016 (81 FR 19703), is unknown.¹ FMCSA seeks any information available in this regard.

FMCSA estimates that approximately 476,000 CLPs are issued annually nationwide. This estimate is based primarily on information from the Commercial Driver's License Information System (CDLIS), a nationwide computer system that enables SDLAs to ensure that each

¹ The Driver and Motor Vehicle Services Division (DMV) of the Oregon Department of Transportation (ODOT) currently offers a CLP that is valid for one year and cannot be renewed. See <https://www.oregon.gov/ODOT/DMV/pages/driverid/cdlget.aspx> (accessed February 9, 2017). ODOT requested the limited exemption from the CLP requirements in 49 CFR 383.25(c), which FMCSA issued on April 5, 2016, and which is applicable to all SDLAs.

commercial driver has only one driver's license and one complete driver record. Data provided by the American Association of Motor Vehicle Administrators (AAMVA) for the three calendar years 2013 through 2015 indicate that approximately 476,000 new Master Pointer Records (MPRs) were added annually to CDLIS during that time.² An MPR is typically added to CDLIS within 10 days of issuing a CLP to a driver who is believed to have never held one previously, or when a non-commercial driver is convicted of a violation in a commercial motor vehicle (CMV). FMCSA believes that the number of MPRs added to CDLIS for drivers without a CLP or CDL but that were convicted of a violation while driving a CMV is very small. To the extent this may occur, the 476,000 value noted above may slightly overestimate the actual number of CLPs issued annually. Conversely, due to certain record retention requirements of CDLIS, it may be possible that a CLP applicant already could have an MPR present in CDLIS (from a previous CDL or CLP that was held by that applicant and for which the MPR created remains in CDLIS for some time after the CLP or CDL has expired or otherwise is no longer in force). To the extent this occurs, the 476,000 value noted above may slightly underestimate the actual number of CLPs issued annually. Despite these potential sources of minor uncertainty, FMCSA believes that the estimate of approximately 476,000 CLPs currently issued annually nationwide is a reasonable one. The Agency specifically invites comment on the accuracy of this estimate. Of the estimated 476,000 CLPs issued annually, there is no readily available source of information regarding how many are renewed. We therefore seek comment and supporting information regarding the number of CLPs issued annually nationwide that are currently renewed. Because

² This estimate excludes data for the month of October 2015, which appeared to be an anomalous outlier figure of about twice the typical monthly figure for the 35 other months during the three year time period of 2013 through 2015 for which data was obtained. It is believed that this may be due in part to the requirement under MAP-21 Section 32305 (Commercial Driver's License Program) that States must be in compliance with all CDL requirements by September 30, 2015.

the Agency cannot currently quantify the number of CLPs issued annually that are renewed, nor the number of SDLAs that would choose to issue a CLP that is valid for up to one year from the date of issuance, FMCSA is unable to quantify the number of CLP holders who would be affected by this proposed rule.

Although FMCSA is unable to quantify the number of SDLAs that may choose to issue a CLP that is valid for up to one year or the number of CLP holders that would be affected by this proposed rule, there are certain types of benefits, costs, and transfers that may occur as a result of this rule.

The potential benefits of this proposed rule would include reduced costs to CLP holders, including reductions in the opportunity cost of time that in the absence of this proposed rule would be spent by CLP holders traveling to and from an SDLA office and at an SDLA office, renewing a CLP that is valid for no more than 180 days. Though potential savings to CLP holders of CLP renewal fees may also appear to be a benefit of this proposed rule, any such changes in renewal fee amounts are best classified as a transfer, which is discussed further below. SDLAs may also realize potential benefits. For example, for SDLAs that chose under this proposed rule to issue a CLP that is valid for up to one year, costs associated with processing renewals of CLPs would be eliminated. However, there may be transfer payments as discussed below. FMCSA seeks comment and any supporting information regarding the potential benefits of this proposed rule.

FMCSA does not expect there to be any costs imposed upon CLP holders as a result of this proposed rule. However, there may be transfer payments as discussed below. The potential costs of this proposed rule to SDLAs include information technology (IT) system upgrade costs for those SDLAs that choose to issue a CLP that is valid for up to one year. Such IT system

upgrades may include software programming changes necessary to reflect a change from a CLP that is valid for up to 180 days to a CLP that is valid for up to one year. The State of Colorado noted the potential for such IT system costs to SDLAs in its comments to the November 27, 2015, notice of ODOT's application for exemption (80 FR 74199), as discussed in the Agency's grant of application for exemption published on April 5, 2016 (81 FR 19703). Under the proposed rule, the decision by an SDLA to issue a CLP that is valid for up to one year would be discretionary. Accordingly, the Agency expects that SDLAs will choose to make this change only to the extent that such IT system upgrade costs would be less than the reduced costs associated with no longer having to process renewals of CLPs, thus resulting in a net benefit to the SDLA.

Finally, though potential reductions in CLP renewal fees collected by SDLAs may appear to be a cost of this proposed rule to SDLAs, any such changes in renewal fee amounts are best classified as a transfer, which is discussed further below. FMCSA seeks comment on supporting information regarding the potential costs of this proposed rule.

In addition to the potential benefits and costs of the rule discussed above, there are also certain transfer payment effects that may occur as a result of this rule. Transfer payments are monetary payments from one group to another that do not affect total resources available to society, and therefore do not represent actual costs or benefits to society. Because of the potential elimination of CLP renewal fees, and the potential for changes to CLP issuance fees, there are transfer effects that may result from this rule. These potential transfer effects include a transfer of CLP renewal fee amounts from SDLAs to CLP holders, and a transfer of CLP renewal fee amounts from one set of CLP holders to another set of CLP holders. In cases where an SDLA maintains the same fee for issuance of a CLP, a transfer would occur from SDLAs to CLP

holders. This transfer represents the total amount of CLP renewal fees that in the absence of this proposed rule CLP holders renewing their CLP would have paid SDLAs.³ Such reductions in CLP renewal fee amounts to SDLAs are properly classified as a transfer, rather than as a cost to SDLAs (in the form of forgone fee revenue) or as a benefit to CLP holders (in the form of CLP renewal fees no longer expended). There is no aggregate change in social welfare resulting from this impact, as it is a simple transfer of value from one set of entities to another. Alternatively, in cases where an SDLA were to increase its fee for the issuance of a CLP in order to offset any reduction in revenue resulting from the elimination of CLP renewals and associated fees, a transfer would occur from those CLP holders who in the baseline would not have renewed their CLP to CLP holders who in the baseline would have renewed their CLP.⁴ Here too there is no aggregate change in social welfare resulting from this impact, as again it is a simple transfer of value from one set of entities to another. In any case, the extent to which SDLAs that choose under this proposed rule to issue a CLP that is valid for up to one year may increase their fee for issuance of a CLP is unknown.⁵ The incentive for an SDLA to do so, however, is likely low due

³ In some States, no fee is charged for CLP renewal, and therefore this type of transfer would not occur if CLP renewals were eliminated.

⁴ As an example of this type of transfer effect, consider a scenario in which in the baseline 10,000 CLPs are issued annually by a State. Of these 10,000 CLP holders, assume half (5,000) renew their CLP, and the remaining half do not. Finally, assume the fee for initial issuance of a CLP in this State is \$25, and that the fee for renewal of a CLP in this State is \$20. Under this scenario, the total fee revenue collected by the SDLA would be \$350,000 in the baseline (calculated as 10,000 CLPs issued at \$25 each, plus 5,000 renewals at \$20 each). Under the rule, with CLP renewal fee revenue now eliminated, for the SDLA to receive the same \$350,000 of fee revenue as before the rule, the fee for CLP issuance would need to increase from \$25 to \$35. Therefore, the 5,000 drivers who in the baseline would not have renewed their CLP would incur an increase in their fees from \$25 to \$35. However, the other 5,000 drivers who in the baseline would have had to renew their CLP would realize a reduction in their total fees from \$45 (for CLP issuance plus CLP renewal) to \$35. This would amount to a transfer from the former set of drivers (who in the baseline would not have renewed their CLPs) to the latter set of drivers (who in the baseline would have renewed their CLPs).

⁵ Under the limited exemption from the CLP requirements in 49 CFR 383.25(c) that was issued on April 5, 2016, the Driver and Motor Vehicle Services Division (DMV) of the Oregon Department of Transportation (ODOT) did subsequently choose to offer a CLP that is valid for one year and cannot be renewed. See <https://www.oregon.gov/ODOT/DMV/pages/driverid/cdlget.aspx> (accessed October 13, 2016). Based on a review of both the *2016-2017 Oregon Commercial Driver Manual* (pg. 1-6, available at <http://www.odot.state.or.us/forms/dmv/36.pdf>), and the

in part to the fact that CLP renewal fees are expected to be a relatively small proportion of the overall fee revenue collected by any given SDLA.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121, 110 Stat. 857), requires Federal agencies to consider the impact of their regulatory proposals on small entities, analyze effective alternatives that minimize small entity impacts, and make their analyses available for public comment. The term “small entities” means small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000.⁶ Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these entities.

When an agency issues a rulemaking proposal, the RFA requires the agency to “prepare and make available for public comment an initial regulatory flexibility analysis” which will “describe the impact of the proposed rule on small entities” (5 U.S.C. 603(a)). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

The primary entities affected by this proposed rule would be SDLAs and CLP holders. Under the standards of the RFA, as amended by the SBREFA, neither SDLAs nor CLP holders

2012-2013 Oregon Commercial Driver Manual (pg. 1-5, available at http://www.e-gears.com/manuals/or_cdl_manual.pdf), it appears that the fee charged by ODOT for issuance of a CLP was not changed when ODOT chose to offer a CLP that is valid for one year.

⁶ Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Available at: <https://www.sba.gov/advocacy/regulatory-flexibility-act> (accessed February 13, 2017).

are small entities. SDLAs are not considered small entities because they do not meet the definition of a small entity in Section 601 of the RFA. Specifically, States are not considered small governmental jurisdictions under Section 601(5) of the RFA, both because State government is not included among the various levels of government listed in Section 601(5), and because, even if this were the case, no State nor the District of Columbia has a population of less than 50,000, which is the criterion by which a governmental jurisdiction is considered small under Section 601(5) of the RFA. CLP holders are not considered small entities because they too do not meet the definition of a small entity in Section 601 of the RFA. Specifically, CLP holders are considered neither a small business under Section 601(3) of the RFA, nor are they considered a small organization under Section 601(4) of the RFA. Therefore, this proposed rule will not have an impact on a substantial number of small entities.

In any case, this rule provides SDLAs the flexibility to choose whether to adopt the one-year CLP validity. As described in more detail earlier, because the decision by an SDLA to issue a CLP that is valid for up to one year is discretionary, the Agency expects that SDLAs will choose to make this change only to the extent that there is a net benefit to the SDLA. Furthermore, though there may be some transfer payment effects between certain types of CLP holders, these effects will not be significant. The Agency does not believe that there will be any costs imposed upon CLP holders as a result of this rule, and CLP holders would benefit from reductions in the opportunity cost of time that in the absence of this proposed rule would be spent by CLP holders traveling to and from an SDLA office and at an SDLA office renewing a CLP. Accordingly, I hereby certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. FMCSA invites comment from anyone who believes there will be a significant impact on small entities from this action.

C. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the FMCSA point of contact, Selden Fritschner, listed in the **For Further Information Contact** section of this proposed rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1-888-REG-FAIR (1-888-734-3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

D. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$156 million (which is the value equivalent of \$100 million in 1995, adjusted for inflation to 2015 levels) or more in any one year. This proposed rule, which is a discretionary regulatory action, would not result in such an expenditure.

Nevertheless, the Agency discusses the potential effects of this proposed rule elsewhere in this preamble.

E. Paperwork Reduction Act

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

F. E.O. 13132 (Federalism)

A rule has implications for Federalism under Section 1(a) of E.O. 13132 if it has “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

FMCSA determined that this proposal would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. This proposed rule does not preempt any State law or regulation. Therefore, this proposed rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Impact Statement.

G. E.O. 12988 (Civil Justice Reform)

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

H. E.O. 13045 (Protection of Children)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), requires agencies issuing "economically significant" rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined this proposed rule is

not economically significant. Therefore, no analysis of the impacts on children is required. In any event, this regulatory action does not in any respect present an environmental health or safety risk that could disproportionately affect children.

I. E.O. 12630 (Taking of Private Property)

FMCSA reviewed this proposed rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not effect a taking of private property or otherwise have taking implications.

J. Privacy

The Consolidated Appropriations Act, 2005, (Pub. L. 108-447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note) requires the Agency to conduct a privacy impact assessment (PIA) of a regulation that will affect the privacy of individuals. Because this proposed rule does not require the collection of personally identifiable information (PII), the Agency is not required to conduct a PIA.

The E-Government Act of 2002, Pub. L. 107-347, § 208, 116 Stat. 2899, 2921 (Dec. 17, 2002), requires Federal agencies to conduct a PIA for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted a PIA.

K. E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

L. E.O. 13211 (Energy Supply, Distribution, or Use)

FMCSA has analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that the rule is not a “significant energy action” under that order because it is not a “significant regulatory action” likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

M. E.O. 13175 (Indian Tribal Governments)

This proposed rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

N. National Technology Transfer and Advancement Act (Technical Standards)

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards that are developed or adopted by voluntary consensus standards bodies. This proposed rule does not use technical standards. Therefore, FMCSA did not consider the use of voluntary consensus standards.

O. Environment (NEPA, CAA, Environmental Justice)

FMCSA analyzed this NPRM for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1(69 FR 9680, March 1, 2004), Appendix 2, paragraph 6.t.(2). The Categorical Exclusion (CE) in paragraph 6.t.(2) includes regulations to ensure that the States comply with the provisions of the Commercial Motor Vehicle Safety Act of 1986. The requirements in this proposed rule are covered by this CE and the proposed action does not have a significant effect on the quality of the human environment. The CE determination is available for inspection or copying in the Federal eRulemaking Portal: <http://www.regulations.gov>.

FMCSA also analyzed this proposed rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 et seq.), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it does not affect direct or indirect emissions of criteria pollutants.

Under E.O. 12898, each Federal agency must identify and address, as appropriate, "disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations" in the United States, its possessions, and territories. FMCSA evaluated the environmental justice effects of this proposed rule in accordance with the E.O., and has determined that no environmental justice issue is associated with this proposed rule, nor is there any collective environmental impact that would result from its promulgation.

List of Subjects

49 CFR 383

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Motor carriers

In consideration of the foregoing, FMCSA proposes to amend 49 CFR chapter 3, part 383 to read as follows:

PART 383 — COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES.

1. The authority citation for part 383 continues to read as follows:

Authority: 49 U.S.C. 521, 31136, 31301 *et seq.*, and 31502; secs. 214 and 215 of Pub. L. 106-159, 113 Stat. 1748, 1766, 1767; sec. 1012(b) of Pub. L. 107-56, 115 Stat. 272, 297; sec. 4140 of Pub. L. 109-59, 119 Stat. 1144, 1746; sec. 32934 of Pub. L. 112-141, 126 Stat. 405, 830; sec. 7208 of Pub. L. 114-94, 129 Stat. 1312, 1593; and 49 CFR 1.87.

2. Amend § 383.25 to revise paragraph (c) to read as follows:

§ 383.25 Commercial learner's permit (CLP).

* * * * *

(c) The CLP must be valid for no more than one year from the date of issuance without requiring the CLP holder to retake the general and endorsement knowledge tests. CLPs issued for a period of less than one year may be renewed as long as the renewed CLP is valid for no more than one year from the date of initial issuance of the original CLP.

3. Amend § 383.73 to revise paragraph (a)(2)(iii) to read as follows:

§ 383.73 State procedures.

(a) * * *

(2) * * *

(iii) Make the CLP valid for no more than one year from the date of issuance without requiring the CLP holder to retake the general and endorsement knowledge tests. CLPs

issued for a period of less than one year may be renewed as long as the renewed CLP is valid for no more than one year from the date of initial issuance of the original CLP.

* * * * *

Issued under authority delegated in 49 CFR 1.87 on: June 6, 2017.

Daphne Y. Jefferson,
Deputy Administrator

[FR Doc. 2017-12080 Filed: 6/9/2017 8:45 am; Publication Date: 6/12/2017]